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LAW OF THE SEA

IMPLEMENTATION OF THE DECLARATION OF THE
INDIAN OCEAN AS A ZONE OF PEACE

Letter dated 18 October 1996 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I wish to refer to the note verbale dated 20 August 1996 from the Permanent Mission of Qatar to the United Nations addressed to the Secretariat (A/50/1034, annex) regarding objections of the State of Qatar to certain provisions of the Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Sea of Oman, 1993 ("Marine Areas Act") and make the following clarifications:

1. Even before the enactment of the said Act, there existed a few acts and decrees pertaining to the Islamic Republic of Iran's rights and jurisdiction over its maritime areas, each of which dealt with one or more issues involving the law of the sea. The Marine Areas Act was drafted to consolidate and supplement all previous relevant legislative provisions into a single statutory instrument, taking into account the progressive development of the law of the sea, including the extension of the jurisdiction of coastal States.

2. The Islamic Republic of Iran does not consider that the United Nations Convention on the Law of the Sea (the "Convention") has merely codified customary rules of international law of the sea, as the President of the Third United Nations Conference on the Law of the Sea stated on 10 December 1982:

> "The argument that, except for Part XI, the Convention codifies customary law or reflects existing international practice is factually incorrect and legally insupportable. The regime of transit passage through straits used for international navigation and the regime of archipelagic sea lane's passage are only two examples of the many new concepts in the Convention." 1/

The recent adoption by various States of laws and regulations similar to the Marine Areas Act concerning their rights and jurisdiction in maritime areas that are not fully compatible with the Convention is further evidence that supports this argument.

3. It should be noted that the Islamic Republic of Iran has not as yet ratified the Convention. Nevertheless, as a signatory State, it has not defeated the object and purpose of the Convention.

4. The drawing of straight baselines by the Islamic Republic of Iran should not be considered unusual, as the same method has been used by other States under similar circumstances. Moreover, it was based on several recognized criteria, among them the drawing of a baseline in a way not to depart to any appreciable extent, from the direction of the coast, and also the coastal State's right to consider the economic interests peculiar to the region concerned, the reality and importance of which are clearly evidenced by long usage. Decree No. 2/250-67 dated 31 Tir 1352 (22 July 1973) was approved and entered into force nearly 25 years ago, and was circulated in the United Nations Legislative Series 2/ but so far no objections have been raised by Qatar to the said Decree.

5. As regards waters between islands within a distance of less than 24 nautical miles, we note that there is no rule in international law prohibiting use of that method. Furthermore, the same method was used in the Act on the Territorial Waters and the Contiguous Zone of Iran dated 24 Tir 1313 (15 July 1934) 3/ and the Act amending the Act on the Territorial Waters and the Contiguous Zone of Iran dated 22 Farvardin 1338 (12 April 1959). 4/ In the Marine Areas Act the same method has been employed, while taking into account the extension of the breadth of the territorial sea.

6. With respect to the laying of marine cables and pipelines on the part of the continental shelf belonging to the Islamic Republic of Iran, it should be clarified that there is no customary rule limiting the right of coastal States in this respect. Furthermore, it needs to be emphasized that, in accordance with article 79 (3) of the Convention, the consent of the coastal State is essential for the delineation of the course for the laying of such pipelines on the continental shelf.

7. As for article 16 of the Marine Areas Act, it should be mentioned that it is almost certain that foreign military exercises and manoeuvres impede and/or cause harm to economic activities of coastal States, for which they enjoy sovereign rights. Accordingly, those exercises and manoeuvres that affect the economic activities in the exclusive economic zone and the continental shelf are prohibited.

8. With regard to marine scientific research in the exclusive economic zone, it should be mentioned that any research conducted in that area would be directly linked to the rights of coastal States concerning the exploration and exploitation of living and non-living resources. Therefore, the Islamic Republic of Iran has reserved its right for the adoption and enforcement of appropriate laws and regulations in this respect.

9. As regards article 9 of the Marine Areas Act, the attention of the Permanent Mission of Qatar is drawn to the statement by the Islamic Republic of Iran on signing the Convention, which provides, inter alia:

> "In the light of customary international law, the provisions of article 21, read in association with article 19 (on the Meaning of Innocent Passage) and article 25 (on the Rights of Protection of the Coastal States) recognize (though implicitly) the rights of the Coastal States to take measures to safeguard their security interests including the adoption of laws and regulations regarding, inter alia, the requirements of prior authorization for warships willing to exercise the right of innocent passage through the territorial sea." 5/

I wish to take this opportunity to remind the esteemed Permanent Mission of Qatar that, in accordance with article 20 of the Convention, the "submarines and other underwater vehicles are required to navigate on the surface and to show their flag".

10. Finally, I wish to draw the attention of the Permanent Mission of Qatar to the unique ecological situation of the Persian Gulf. Considering the small area of this enclosed sea, its shallow water and the intensity of the economic activities that take place within that region, especially fishing and hydrocarbon extraction, it is a highly vulnerable zone which has been designated as a "special zone" in 1973/78 International Convention for the Prevention of Pollution from Ships (MARPOL Convention). For these reasons, the requirement of obtaining prior authorization for the passage of some categories of foreign vessels, especially for ships carrying hazardous substances, was incorporated in the Marine Areas Act to employ more supervision over the traffic of such vessels and to protect the marine environment of the region.

I should be grateful if you would have the text of the present letter circulated as an official document of the General Assembly, under agenda items 24 and 77.

(Signed) Kamal KHARRAZI
Ambassador
Permanent Representative

Notes

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII, (United Nations publication, Sales No. E.84.V.3), Verbatim records of meetings, 193rd meeting, para. 48.

2/ ST/LEG/SER.B/19, pp. 55-56.

3/ ST/LEG/SER.B/6, p. 24.

4/ ST/LEG/SER.B/15, p. 88.

5/ Law of the Sea Bulletin, No. 5 (July 1985), p. 14.